

Remarks

The Examiner has rejected claims 1, 2, 4, 5 and 9 under 35 USC 102(b) as being anticipated by US Patent No. 6,383,106 to Kashiwase (hereinafter Kashiwase). It is respectfully submitted that the claims, as amended, distinguish over the Kashiwase reference. More particularly, claim 1 has now been amended to more precisely state that the PTO shaft provides a drive interface to drive an attached implement wherein mechanical torque is provided to the implement. Because element 5a of Kashiwase cited by the Examiner as being the power take off shaft is in fact a drive shaft that inputs to a CVT transmission that powers the drive wheels of the vehicle claim 1 now clearly distinguishes over Kashiwase because Kashiwase clearly does not have a PTO that provides a drive interface for providing torque to an attached implement. Further, the wheel brakes which the Examiner asserts are inherent in the Kashiwase disclosure are not disclosed as being controlled by the controller. The examiner has rejected the previous arguments that Kashiwase does not control the brake but simply senses the condition of the brake and uses this information to control the operation of the engine and motors, based upon column 3, lines 37-48 and particularly the passage referring to the brake pedal condition and ABS. The examiner asserts that the control system of Kashiwase controls the wheel brake through the ABS. It is respectfully submitted that there simply is no support in the Kashiwase reference for this assertion inasmuch as Kashiwase states in no uncertain terms that:

The driver's intention determining system 11 detects depression operation of accelerator pedal and brake pedal, and steering angle, thereby determining driving operation condition dependent on the operation of the driver. The vehicle control condition determining system 12 determines brake pedal depression condition, control quantity for the engine and the ABS (Anti-lock Braking System), and operating conditions of lights, an air conditioner and others. The driving condition determining system 13 determines the change of driving conditions such as vehicle speed, ascending and descending, and road surface conditions.

In dependency on outputs of those systems, the monitor and control

system 10 controls operations of the engine 1 and motors 2 and 4, the oil pressure in cylinders 5f of the CVT 5, the charging of a battery 14.

Simply Kashiwase monitors the condition of, *inter alia*, the brakes including the ABS and uses the information to control the operation of the engine and motors 2 and 4, the oil pressure in cylinders 5f of the CVT 5, the charging of a battery 14. The above paragraph found at column 3, lines 48-51 could not be more straightforward in listing precisely what is being controlled by the system 10 and nowhere in this paragraph or elsewhere in the disclosure of Kashiwase is there support for the premise that the system 10 controls the ABS. It is submitted that the examiner is reading more into the disclosure of Kashiwase than is actually disclosed there.

Further claim 1 has been amended to state that when the combination gearbox is driven by the internal combustion engine over the gearbox interface and the power take-off shaft is stopped by the brake, the entire mechanical energy supplied to the combination gearbox is supplied to the electrical machine. It is submitted that this limitation clearly distinguishes over the references of record, none of which disclose such a feature.

The Examiner has also rejected claims 1, 2, 4, 5 and 9-11 under 35 USC 103(a) as being unpatentable over US Patent 5,730,676 to Schmidt (hereinafter Schmidt) in view of US Patent 6,205,385 to Stelzle et al. (hereinafter Stelzle). It is respectfully submitted that the claims of the present application distinguish over the combination of Schmidt and Stelzle for the reasons set forth in the Amendment of 26 February 2007. The Examiner now asserts that the ECU of Schmidt controls the transfer of engine power to the transmission and as best understood seems to indicate that this is the same as controlling the internal combustion engine itself. It is submitted however that controlling the flow of power downstream of a power source is not the same as controlling the power source itself. Clutch 232 of Schmidt merely serves to engage or disengage the engine from the transmission. The speed of the engine output remains the same regardless of whether the clutch 232 is engaged or not, so the ECU of Schmidt in no way controls the engine or its output. Further there is nothing in the Stelzle reference to suggest modifying Schmidt to include this feature.

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Accordingly, it is submitted that the rejection under 35 USC 103(a) should be withdrawn.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested. Should the Examiner persist in the rejection it is respectfully requested that the above amendment be entered, as it places the application and issues in better condition for an intended appeal.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525. Two duplicates of this page are enclosed.

Respectfully,

/W. Michael Dixon #37815/

Attorney for Applicant(s)

W. Michael Dixon
Reg. No. 37,815
Patent Department
Deere & Company
One John Deere Place
Moline, IL 61265
Telephone No. (309) 765-5159